

S. 456

IN THE SENATE OF THE UNITED STATES

Mrs. MOSELEY-BRAUN (for herself, Mr. KENNEDY, Mr. GRAHAM, Mr. KERRY, Mr. LEVIN, Mr. TORRICELLI, Mrs. MURRAY, Ms. MIKULSKI, Mr. DODD, and Mr. WELLSTONE) introduced the following bill; which was referred to the Committee on Labor and Human Resources

A BILL

To establish a partnership to rebuild and modernize America's school facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Partnership to Rebuild
5 America’s Schools Act of 1997”.

6 TITLE I—SCHOOL CONSTRUCTION ASSISTANCE
7 PROGRAM

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10 follows:

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1 PART 1—PROGRAM AUTHORIZED

2 FINDINGS AND PURPOSE

3 SEC. 102. (a) FINDINGS.—The Congress finds as fol-
4 lows:

5 (1) According to the General Accounting Office,
6 one-third of all elementary and secondary schools in

1 the United States, serving 14,000,000 students,
2 need extensive repair or renovation.

3 (2) School infrastructure problems exist across
4 the country, but are most severe in central cities and
5 in schools with high proportions of poor and minor-
6 ity children.

7 (3) Many States and school districts will need
8 to build new schools in order to accommodate in-
9 creasing student enrollments; the Department of
10 Education has predicted that the Nation will need
11 6,000 more schools by the year 2006.

12 (4) Many schools do not have the physical in-
13 frastructure to take advantage of computers and
14 other technology needed to meet the challenges of
15 the next century.

16 (5) While school construction and maintenance
17 are primarily a State and local concern, States and
18 communities have not, on their own, met the in-
19 creasing burden of providing acceptable school facili-
20 ties for all students, and the poorest communities
21 have had the greatest difficulty meeting this need.

22 (6) The Federal Government, by providing in-
23 terest subsidies and similar types of support, can
24 lower the costs of State and local school infrastruc-
25 ture investment, creating an incentive for States and

11 DEFINITIONS

(1) CHARTER SCHOOL.—The term “charter school” has the meaning given that term in section 10306(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066(1)).

(2) COMMUNITY SCHOOL.—The term “community school” means a school, or part of a school, that serves as a center for after-school and summer programs and delivery of education, tutoring, cultural, and recreational services, and as a safe haven for all members of the community by—

(A) collaborating with other public and private nonprofit agencies (including libraries and other educational, human-service, cultural, and

recreational entities) and private businesses in the provision of services;

(B) providing services such as literacy and reading programs; senior citizen programs; children's day-care services; nutrition services; services for individuals with disabilities; employment counseling, training, and placement; and other educational, health, cultural, and recreational services; and

(C) providing those services outside the normal school day and school year, such as through safe and drug-free safe havens for learning.

(3)(A) CONSTRUCTION.—The term “construction” means—

(i) the preparation of drawings and specifications for school facilities;

(ii) erecting, building, acquiring, remodeling, renovating, improving, repairing or extending school facilities;

(iii) demolition, in preparation for rebuilding school facilities; and

(iv) the inspection and supervision of the construction of school facilities.

1 (B) The term “construction” does not include
2 the acquisition of any interest in real property.

3 (4) LOCAL EDUCATIONAL AGENCY.—The term
4 “local educational agency” has the meaning given
5 that term in section 14101(18) (A) and (B) of the
6 Elementary and Secondary Education Act of 1965
7 (20 U.S.C. 8801(18) (A) and (B)).

8 (5) SCHOOL FACILITY.—(A) Term “school facil-
9 ity” means—

10 (i) a public structure suitable for use as a
11 classroom, laboratory, library, media center, or
12 related facility, whose primary purpose is the
13 instruction of public elementary or secondary
14 students; and

15 (ii) initial equipment, machinery, and utili-
16 ties necessary or appropriate for school pur-
17 poses.

18 (B) The term “school facility” does not include
19 an athletic stadium, or any other structure or facil-
20 ity intended primarily for athletic exhibitions, con-
21 tests, games, or events for which admission is
22 charged to the general public.

23 (6) SECRETARY.—The term “Secretary” means
24 the Secretary of Education.

(7) STATE.—The term “State” means each of the 50 States and the Commonwealth of Puerto Rico.

(8) STATE EDUCATIONAL AGENCY.—The term “State educational agency” has the meaning given that term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

9 FUNDS APPROPRIATED

SEC. 104. There are appropriated \$5,000,000,000 for the purpose of carrying out this Act, which shall be available for obligation by the Secretary of Education from October 1, 1997 until September 30, 2001.

14 ALLOCATION OF FUNDS

15 SEC. 105. (a) RESERVATION FOR THE SECRETARY
16 OF THE INTERIOR AND THE OUTLYING AREAS.—

17 (1) The Secretary shall reserve up to 2 percent
18 of the funds appropriated by section 104 to—

(A) provide assistance to the Secretary of the Interior, which the Secretary of the Interior shall use for the school construction priorities described in section 1125(c) of the Education Amendments of 1978 (25 U.S.C. 2005(c)); and

(B) make grants to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in ac-

1 cordance with their respective needs, as deter-
 2 mined by the Secretary.

3 (2) Grants provided under paragraph (1)(B)
 4 shall be used for activities that the Secretary deter-
 5 mines best meet the school infrastructure needs of
 6 the areas identified in that paragraph, subject to the
 7 terms and conditions, consistent with the purpose of
 8 this Act, that the Secretary may establish.

9 (b) ALLOCATION OF REMAINING FUNDS.—Of the re-
 10 maining funds appropriated by section 104—

11 (1) 50 percent shall be used for formula grants
 12 to States under section 111;

13 (2) 35 percent shall be used for direct formula
 14 grants to local educational agencies under section
 15 126; and

16 (3) 15 percent shall be used for competitive
 17 grants to local educational agencies under section
 18 127.

19 PART 2—GRANTS TO STATES

20 ALLOCATION OF FUNDS

21 SEC. 111. (a) FORMULA GRANTS TO STATES.—Sub-
 22 ject to subsection (b), the Secretary shall allocate the
 23 funds available under section 105(b)(1) among the States
 24 in proportion to the relative amounts each State would
 25 have received for Basic Grants under subpart 2 of part

1 A of title I of the Elementary and Secondary Education
 2 Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent
 3 fiscal year if the Secretary had disregarded the numbers
 4 of children counted under that subpart who were enrolled
 5 in schools of local educational agencies that are eligible
 6 to receive direct grants under section 126 of this Act.

7 (b) ADJUSTMENTS TO ALLOCATIONS.—The Sec-
 8 retary shall adjust the allocations under subsection (a),
 9 as necessary, to ensure that, of the total amount allocated
 10 to States under subsection (a) and to local educational
 11 agencies under section 126, the percentage allocated to a
 12 State under this section and to localities in the State
 13 under section 126 is at least the minimum percentage for
 14 the State described in section 1124(d) of the Elementary
 15 and Secondary Education Act of 1965 (20 U.S.C.
 16 6334(d)) for the previous fiscal year.

17 (c) REALLOCATIONS.—If a State does not apply for
 18 its allocation, applies for less than its full allocation, or
 19 fails to submit an approvable application, the Secretary
 20 may reallocate all or a portion of the State’s allocation,
 21 as the case may be, to the remaining States in the same
 22 proportions as the original allocations were made to those
 23 States under subsections (a) and (b).

24 ELIGIBLE STATE AGENCY

25 SEC. 112. The Secretary shall award each State’s
 26 grant to the State agency, such as a State educational

1 agency, a State school construction agency, or a State
 2 bond bank, that the Governor, with the agreement of the
 3 chief State school officer, designates as best able to admin-
 4 ister the grant.

5 ALLOWABLE USES OF FUNDS

6 SEC. 113. Each State shall use its grant under this
 7 part only for one or more of the following activities to sub-
 8 sidize the cost of eligible school construction projects de-
 9 scribed in section 114:

10 (1) Providing a portion of the interest cost (or
 11 of another financing cost approved by the Secretary)
 12 on bonds, certificates of participation, purchase or
 13 lease arrangements, or other forms of indebtedness
 14 issued or entered into by a State or its instrumental-
 15 ity for the purpose of financing eligible projects.

16 (2) State-level expenditures approved by the
 17 Secretary for credit enhancement for the debt or fi-
 18 nancing instruments described in paragraph (1).

19 (3) Making subgrants, or making loans through
 20 a State revolving fund, to local educational agencies
 21 or (with the agreement of the affected local edu-
 22 cational agency) to other qualified public agencies to
 23 subsidize—

24 (A) the interest cost (or another financing
 25 cost approved by the Secretary) of bonds, cer-
 26 tificates of participation, purchase or lease ar-

rangements, or other forms of indebtedness issued or entered into by a local educational agency or other agency or unit of local government for the purpose of financing eligible projects; or

(B) local expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in subparagraph (A).

(4) Other State and local expenditures approved by the Secretary that leverage funds for additional school construction.

ELIGIBLE CONSTRUCTION PROJECTS; PERIOD FOR INITIATION

SEC. 114. (a) ELIGIBLE PROJECTS.—States and their subgrantees may use funds under this part, in accordance with section 113, to subsidize the cost of—

(1) construction of elementary and secondary school facilities in order to ensure the health and safety of all students, which may include the removal of environmental hazards; improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure; and building improvements that increase school safety;

(2) construction activities needed to meet the requirements of section 504 of the Rehabilitation

1 Act of 1973 (29 U.S.C. 794) or of the Americans
2 with Disabilities Act of 1990 (42 U.S.C. 12101 et
3 seq.);

4 (3) construction activities that increase the en-
5 ergy efficiency of school facilities;

6 (4) construction that facilitates the use of mod-
7 ern educational technologies;

8 (5) construction of new school facilities that are
9 needed to accommodate growth in school enroll-
10 ments; or

11 (6) construction projects needed to facilitate the
12 establishment of charter schools and community
13 schools.

14 (b) PERIOD FOR INITIATION OF PROJECT.—(1) Each
15 State shall use its grant under this part only to subsidize
16 construction projects described in subsection (a) that the
17 State or its localities have chosen to initiate, through the
18 vote of a school board, passage of a bond issue, or similar
19 public decision, made between July 11, 1996 and Septem-
20 ber 30, 2001.

21 (2) If a State determines, after September 30, 2001,
22 that an eligible project for which it has obligated funds
23 under this part will not be carried out, the State may use
24 those funds (or any available portion of those funds) for

1 other eligible projects selected in accordance with this
2 part.

3 (c) REALLOCATION.—If the Secretary determines, by
4 a date before September 30, 2001 selected by the Sec-
5 retary, that a State is not making satisfactory progress
6 in carrying out its plan for the use of the funds allocated
7 to it under this part, the Secretary may reallocate all or
8 part of those funds, including any interest earned by the
9 State on those funds, to one or more other States that
10 are making satisfactory progress.

11 SELECTION OF LOCALITIES AND PROJECTS

12 SEC. 115. (a) PRIORITIES.—In determining which lo-
13 calities and activities to support with grant funds, each
14 State shall give the highest priority to—

15 (1) localities with the greatest needs, as dem-
16 onstrated by inadequate educational facilities, cou-
17 pled with a low level of resources available to meet
18 school construction needs; and

19 (2) localities that will achieve the greatest
20 leveraging effect on school construction from assist-
21 ance under this part.

22 (b) ADDITIONAL CRITERIA.—In addition to the prior-
23 ities required by subsection (a), each State shall consider
24 each of the following in determining the use of its grant
25 funds under this part:

(3) The commitment of communities to finance school construction and renovation projects with assistance from the State's grant, as demonstrated by their incurring indebtedness or by similar public or private commitments for the purposes described in section 114(a).

16 (5) The particular needs, if any, of rural com-
17 munities in the State for assistance under this Act.

23 STATE APPLICATIONS

SEC. 116. (a) APPLICATION REQUIRED.—A State that wishes to receive a grant under this part shall submit an application to the Secretary, in the manner the Sec-

1 retary may require, not later than two years after the date
2 of enactment of this Act.

3 (b) DEVELOPMENT OF APPLICATION.—(1) The State
4 agency designated under section 112 shall develop the
5 State’s application under this part only after broadly con-
6 sulting with the State board of education, and representa-
7 tives of local school boards, school administrators, the
8 business community, parents, and teachers in the State
9 about the best means of carrying out this part.

10 (2) If the State educational agency is not the State
11 agency designated under section 112, the designated agen-
12 cy shall consult with the State educational agency and ob-
13 tain its approval before submitting the State’s application.

14 (c) STATE SURVEY.—(1) Before submitting the
15 State’s application, the State agency designated under sec-
16 tion 112, with the involvement of local school officials and
17 experts in building construction and management, shall
18 survey the needs throughout the State (including in local-
19 ities receiving grants under part 3) for construction and
20 renovation of school facilities, including, at a minimum—

21 (A) the overall condition of school facilities in
22 the State, including health and safety problems;

23 (B) the capacity of the schools in the State to
24 house projected enrollments; and

1 (C) the extent to which the schools in the State
2 offer the physical infrastructure needed to provide a
3 high-quality education to all students.

4 (2) A State need not conduct a new survey under
5 paragraph (1) if it has previously completed a survey that
6 meets the requirements of that paragraph and that the
7 Secretary finds is sufficiently recent for the purpose of
8 carrying out this part.

9 (d) APPLICATION CONTENTS.—Each State applica-
10 tion under this part shall include—

11 (1) an identification of the State agency des-
12 ignated by the Governor under section 112 to receive
13 the State's grant under this part;

14 (2) a summary of the results of the State's sur-
15 vey of its school facility needs, as described in sub-
16 section (c);

17 (3) a description of how the State will imple-
18 ment its program under this part;

19 (4) a description of how the State will allocate
20 its grant funds, including a description of how the
21 State will implement the priorities and criteria de-
22 scribed in section 115;

23 (5)(A) a description of the mechanisms that will
24 be used to finance construction projects supported
25 by grant funds; and

1 (B) a statement of how the State will determine
2 the amount of the Federal subsidy to be applied, in
3 accordance with section 117(a), to each local project
4 that the State will support;

5 (6) a description of how the State will ensure
6 that the requirements of this part are met by sub-
7 grantees under this part;

8 (7) a description of the steps the State will take
9 to ensure that local educational agencies will ade-
10 quately maintain the facilities that are constructed
11 or improved with funds under this part;

12 (8) an assurance that the State will use its
13 grant only to supplement the funds that the State,
14 and the localities receiving subgrants, would spend
15 on school construction and renovation in the absence
16 of a grant under this part, and not to supplant those
17 funds;

18 (9) an assurance that, during the four-year pe-
19 riod beginning with the year the State receives its
20 grant, the combined expenditures for school con-
21 struction by the State and the localities that benefit
22 from the State's program under this part (which, at
23 the State's option, may include private contribu-
24 tions) will be at least 125 percent of those combined

1 expenditures for that purpose for the four preceding
 2 years; and

3 (10) other information and assurances that the
 4 Secretary may require.

5 (e) WAIVER OF REQUIREMENT TO INCREASE EX-
 6 PENDITURES.—The Secretary may waive or modify the re-
 7 quirement of subsection (d)(9) for a particular State if
 8 the State demonstrates to the Secretary's satisfaction that
 9 that requirement is unduly burdensome because the State
 10 or its localities have incurred a particularly high level of
 11 school construction expenditures during the previous four
 12 years.

13 AMOUNT OF FEDERAL SUBSIDY

14 SEC. 117. (a) PROJECTS FUNDED WITH SUB-
 15 GRANTS.—For each construction project assisted by a
 16 State through a subgrant to a locality, the State shall de-
 17 termine the amount of the Federal subsidy under this
 18 part, taking into account the number or percentage of chil-
 19 dren from low-income families residing in the locality, sub-
 20 ject to the following limits:

21 (1) If the locality will use the subgrant to help
 22 meet the costs of repaying bonds issued for a school
 23 construction project, the Federal subsidy shall be
 24 not more than one-half of the total interest cost of
 25 those bonds, determined in accordance with para-
 26 graph (4).

1 (2) If the bonds to be subsidized are general ob-
2 ligation bonds issued to finance more than one type
3 of activity (including school construction), the Fed-
4 eral subsidy shall be not more than one-half of the
5 interest cost for that portion of the bonds that will
6 be used for school construction purposes, determined
7 in accordance with paragraph (4).

8 (3) If the locality elects to use its subgrant for
9 an allowable activity not described in paragraph (1)
10 or (2), such as for certificates of participation, pur-
11 chase or lease arrangements, reduction of the
12 amount of principal to be borrowed, or credit en-
13 hancements for individual construction projects, the
14 Federal subsidy shall be not more than one-half of
15 the interest cost, as determined by the State in ac-
16 cordance with paragraph (4), that would have been
17 incurred if bonds had been used to finance the
18 project.

19 (4) The interest cost referred to in paragraphs
20 (1), (2), and (3) shall be—

21 (A) calculated on the basis of net present
22 value; and

23 (B) determined in accordance with an am-
24 ortization schedule and any other criteria and
25 conditions the Secretary considers necessary, in-

1 cluding provisions to ensure comparable treat-
2 ment of different financing mechanisms.

3 (b) STATE-FUNDED PROJECTS.—For a construction
4 project under this part funded directly by the State
5 through the use of State-issued bonds or other financial
6 instruments, the Secretary shall determine the Federal
7 subsidy in accordance with subsection (a).

8 (c) NON-FEDERAL SHARE.—A State, and localities
9 in the State receiving subgrants under this part, may use
10 any non-Federal funds, including State, local, and private-
11 sector funds, for the financing costs that are not covered
12 by the Federal subsidy under subsection (a).

13 SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT
14 SEC. 118. (a) SEPARATE FUNDS OR ACCOUNTS RE-
15 QUIRED.—Each State that receives a grant, and each re-
16 cipient of a subgrant under this part, shall deposit the
17 grant or subgrant proceeds in a separate fund or account,
18 from which it shall make bond repayments and pay other
19 expenses allowable under this part.

20 (b) PRUDENT INVESTMENT REQUIRED.—Each State
21 that receives a grant, and each recipient of a subgrant
22 under this part, shall—

23 (1) invest the grant or subgrant in a fiscally pru-
24 dent manner, in order to generate amounts needed
25 to make repayments on bonds and other forms of in-
26 debtedness described in section 113; and

1 (2) notwithstanding section 6503 of title 31,
 2 United States Code or any other law, use the pro-
 3 ceeds of that investment to carry out this part.

4 STATE REPORTS

5 SEC. 119. (a) REPORTS REQUIRED.—

6 (1) Each State receiving a grant under this
 7 part shall report to the Secretary on its activities
 8 under this part, in the form and manner the Sec-
 9 retary may prescribe.

10 (2) If the State educational agency is not the
 11 State agency designated under section 112, the
 12 State's report shall include the approval of the State
 13 educational agency or its comments on the report.

14 (b) CONTENTS.—Each report shall—

15 (1) describe the State's implementation of this
 16 part, including how the State has met the require-
 17 ments of this part;

18 (2) identify the specific school facilities con-
 19 structed, renovated, or modernized with support
 20 from the grant, and the mechanisms used to finance
 21 those activities;

22 (3) identify the level of Federal subsidy pro-
 23 vided to each construction project carried out with
 24 support from the State's grant; and

25 (4) include any other information the Secretary
 26 may require.

1 (c) FREQUENCY.—(1) Each State shall submit its
 2 first report under this section not later than 24 months
 3 after it receives its grant under this part.

4 (2) Each State shall submit an annual report for each
 5 of the three years after submitting its first report, and
 6 subsequently shall submit periodic reports as long as the
 7 State or localities in the State are using grant funds.

8 PART 3—DIRECT GRANTS TO LOCAL EDUCATIONAL
 9 AGENCIES

10 ELIGIBLE LOCAL EDUCATIONAL AGENCIES

11 SEC. 121. (a) ELIGIBLE AGENCIES.—Except as pro-
 12 vided in subsection (b), the local educational agencies that
 13 are eligible to receive formula grants under section 126
 14 and competitive grants under section 127 from the Sec-
 15 retary are the 100 local educational agencies with the larg-
 16 est numbers of children aged 5 through 17 from families
 17 living below the poverty level, as determined by the Sec-
 18 retary using the most recent data available from the De-
 19 partment of Commerce that are satisfactory to the Sec-
 20 retary.

21 (b) CERTAIN JURISDICTIONS INELIGIBLE.—For the
 22 purpose of this part, the local educational agencies for Ha-
 23 waii and the Commonwealth of Puerto Rico are not eligi-
 24 ble local educational agencies.

GRANTEES

1
2 SEC. 122. For each local educational agency de-
3 scribed in section 121(a) for which an approvable applica-
4 tion is submitted, the Secretary shall make any grant
5 under this part to the local educational agency or to an-
6 other public agency, on behalf of the local educational
7 agency, if the Secretary determines, on the basis of the
8 local educational agency's recommendation, that the other
9 agency is better able to carry out activities under this part.

ALLOWABLE USES OF FUNDS

10
11 SEC. 123. Each grantee under this part shall use its
12 grant only for one or more of the following activities to
13 reduce the cost of financing eligible school construction
14 projects described in section 124:

15 (1) Providing a portion of the interest cost (or
16 of any other financing cost approved by the Sec-
17 retary) on bonds, certificates of participation, pur-
18 chase or lease arrangements, or other forms of in-
19 debtedness issued or entered into by a local edu-
20 cational agency or other unit or agency of local gov-
21 ernment for the purpose of financing eligible school
22 construction projects.

23 (2) Local expenditures approved by the Sec-
24 retary for credit enhancement for the debt or financ-
25 ing instruments described in paragraph (1).

5 SEC. 124. (a) ELIGIBLE PROJECTS.—A grantee
6 under this part may use its grant, in accordance with sec-
7 tion 123, to subsidize the cost of the activities described
8 in section 114(a) for projects that the local educational
9 agency has chosen to initiate, through the vote of the
10 school board, passage of a bond issue, or similar public
11 decision, made between July 11, 1996 and September 30,
12 2001.

(b) REDISTRIBUTION.—If the Secretary determines, by a date before September 30, 2001 selected by the Secretary, that a local educational agency is not making satisfactory progress in carrying out its plan for the use of funds awarded to it under this part, the Secretary may redistribute all or part of those funds, and any interest earned by that agency on those funds, to one or more other local educational agencies that are making satisfactory progress.

23 SEC. 125. (a) APPLICATION REQUIRED.—A local
24 educational agency, or an alternative agency described in
25 section 122 (both referred to in this part as the “local
26 agency”), that wishes to receive a grant under this part

1 shall submit an application to the Secretary, in the man-
2 ner the Secretary may require, not later than two years
3 after the date of enactment of this Act.

4 (b) DEVELOPMENT OF APPLICATION.—(1) The local
5 agency shall develop the local application under this part
6 only after broadly consulting with parents, administrators,
7 teachers, the business community, and other members of
8 the local community about the best means of carrying out
9 this part.

10 (2) If the local educational agency is not the appli-
11 cant, the applicant shall consult with the local educational
12 agency, and shall obtain its approval before submitting its
13 application to the Secretary.

14 (c) LOCAL SURVEY.—(1) Before submitting its appli-
15 cation, the local agency, with the involvement of local
16 school officials and experts in building construction and
17 management, shall survey the local need for construction
18 and renovation of school facilities, including, at a mini-
19 mum—

20 (A) the overall condition of school facilities in
21 the local educational agency, including health and
22 safety problems;

23 (B) the capacity of the local educational agen-
24 cy's schools to house projected enrollments; and

1 (C) the extent to which the local educational
2 agency's schools offer the physical infrastructure
3 needed to provide a high-quality education to all stu-
4 dents.

5 (2) A local educational agency need not conduct a
6 new survey under paragraph (1) if it has previously com-
7 pleted a survey that meets the requirements of that para-
8 graph and that the Secretary finds is sufficiently recent
9 for the purpose of carrying out this part.

10 (d) APPLICATION CONTENTS.—Each local applica-
11 tion under this part shall include—

12 (1) an identification of the local agency to re-
13 ceive the grant under this part;

14 (2) a summary of the results of the survey of
15 school facility needs, as described in subsection (c);

16 (3) a description of how the local agency will
17 implement its program under this part;

18 (4) a description of the criteria the local agency
19 has used to determine which construction projects to
20 support with grant funds;

21 (5) a description of the construction projects
22 that will be supported with grant funds;

23 (6) a description of the mechanisms that will be
24 used to finance construction projects supported by
25 grant funds;

1 (7) a requested level of Federal subsidy, with a
2 justification for that level, for each construction
3 project to be supported by the grant, in accordance
4 with section 128(a), including the financial and de-
5 mographic information the Secretary may require;

6 (8) a description of the steps the agency will
7 take to ensure that facilities constructed or improved
8 with funds under this part will be adequately main-
9 tained;

10 (9) an assurance that the agency will use its
11 grant only to supplement the funds that the locality
12 would spend on school construction and renovation
13 in the absence of a grant under this part, and not
14 to supplant those funds;

15 (10) an assurance that, during the four-year
16 period beginning with the year the local educational
17 agency receives its grant, its expenditures for school
18 construction (which, at that agency's option, may in-
19 clude private contributions) will be at least 125 per-
20 cent of its expenditures for that purpose for the four
21 preceding years; and

22 (11) other information and assurances that the
23 Secretary may require.

24 (e) WAIVER OF REQUIREMENT TO INCREASE EX-
25 PENDITURES.—The Secretary may waive or modify the re-

1 requirement of subsection (d)(10) for a local educational
 2 agency that demonstrates to the Secretary's satisfaction
 3 that that requirement is unduly burdensome because that
 4 agency has incurred a particularly high level of school con-
 5 struction expenditures during the previous four years.

6 FORMULA GRANTS

7 SEC. 126. (a) ALLOCATIONS.—The Secretary shall
 8 allocate the funds available under section 105(b)(2) to the
 9 local educational agencies identified under section 121(a)
 10 on the basis of their relative allocations under section
 11 1124 of the Elementary and Secondary Education Act of
 12 1965 (20 U.S.C. 6333) in the most recent year for which
 13 that information is available to the Secretary.

14 (b) REALLOCATIONS.—If a local educational agency
 15 does not apply for its allocation, applies for less than its
 16 full allocation, or fails to submit an approvable applica-
 17 tion, the Secretary may reallocate all or a portion of its
 18 allocation, as the case may be, to the remaining local edu-
 19 cational agencies in the same proportions as the original
 20 allocations were made to those agencies under subsection
 21 (a).

22 COMPETITIVE GRANTS

23 SEC. 127. (a) GRANTS AUTHORIZED.—The Secretary
 24 shall use funds available under section 105(b)(3) to make
 25 additional grants, on a competitive basis, to recipients of
 26 formula grants under section 126.

1 (b) ADDITIONAL APPLICATION MATERIALS.—Any el-
2 ible applicant under section 126 that wishes to receive
3 additional funds under this section shall include in its ap-
4 plication under section 125 the following additional infor-
5 mation:

6 (1) The amount of funds requested under this
7 section, in accordance with ranges or limits that the
8 Secretary may establish based on factors such as rel-
9 ative size of the eligible applicants.

10 (2) A description of the additional construction
11 activities that the applicant would carry out with
12 those funds.

13 (3) Information on the current financial effort
14 the applicant is making for elementary and second-
15 ary education, including support from private
16 sources, relative to its resources.

17 (4) Information on the extent to which the ap-
18 plicant will increase its own (or other public or pri-
19 vate) spending for school construction in the year in
20 which it receives a grant under this section, above
21 the average annual amount for construction activity
22 during the preceding four years.

23 (5) A description of the energy efficiency and
24 the effect on the environment of the projects that
25 the applicant will undertake, both with its grant

1 under this section and its grant under section 126,
 2 and of the extent to which those projects will use
 3 cost-efficient architectural design.

4 (6) Other information that the Secretary may
 5 require.

6 (c) SELECTION OF GRANTEES.—The Secretary shall
 7 select grantees under this section on the basis of criteria,
 8 consistent with the purpose of this Act, that the Secretary
 9 may establish, which shall include—

10 (1) the relative need of applicants, as dem-
 11 onstrated by inadequate educational facilities and a
 12 low level of resources to meet their school construc-
 13 tion needs;

14 (2) the commitment of applicants to meet their
 15 school construction needs and the leveraging effect
 16 that assistance under this part would have, as dem-
 17 onstrated by the additional resources that they will
 18 provide, from non-Federal sources, to meet those
 19 needs, in accordance with subsection (b)(4).

20 AMOUNT OF FEDERAL SUBSIDY

21 SEC. 128. (a) AMOUNT OF FEDERAL SUBSIDY.—For
 22 each construction project assisted under this part, the Sec-
 23 retary shall determine the amount of the Federal subsidy
 24 in accordance with section 117(a).

25 (b) NON-FEDERAL SHARE.—A grantee under this
 26 part may use any non-Federal funds, including State,

1 local, and private-sector funds, for the financing costs that
 2 are not covered by the Federal subsidy under subsection
 3 (a).

4 SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT

5 SEC. 129. (a) SEPARATE FUNDS OR ACCOUNTS RE-
 6 QUIRED.—Each grantee under this part shall deposit the
 7 grant proceeds in a separate fund or account, from which
 8 it shall make bond repayments and pay other expenses al-
 9 lowable under this part.

10 (b) PRUDENT INVESTMENT REQUIRED.—Each
 11 grantee under this part shall—

12 (1) invest the grant funds in a fiscally prudent
 13 manner, in order to generate amounts needed to
 14 make repayments on bonds and other forms of in-
 15 debtedness; and

16 (2) Notwithstanding section 6503 of title 31,
 17 United States Code or any other law, use the pro-
 18 ceeds of that investment to carry out this part.

19 LOCAL REPORTS

20 SEC. 130. (a) REPORTS REQUIRED.—(1) Each grant-
 21 ee under this part shall report to the Secretary on its ac-
 22 tivities under this part, in the form and manner the Sec-
 23 retary may prescribe.

24 (2) If the local educational agency is not the grantee
 25 under this part, the grantee's report shall include the ap-

1 proval of the local educational agency or its comments on
 2 the report.

3 (b) CONTENTS.—Each report shall—

4 (1) describe the grantee’s implementation of
 5 this part, including how it has met the requirements
 6 of this part;

7 (2) identify the specific school facilities con-
 8 structed, renovated, or modernized with support
 9 from the grant, and the mechanisms used to finance
 10 those activities; and

11 (3) other information the Secretary may re-
 12 quire.

13 (c) FREQUENCY.—(1) Each grantee shall submit its
 14 first report under this section not later than 24 months
 15 after it receives its grant under this part.

16 (2) Each grantee shall submit an annual report for
 17 each of the three years after submitting its first report,
 18 and subsequently shall submit periodic reports as long as
 19 it is using grant funds.

20 TITLE II—GENERAL PROVISIONS

21 TECHNICAL EMPLOYEES

22 SEC. 201. For the purpose of carrying out this Act,
 23 the Secretary, without regard to the provisions of title 5,
 24 United States Code, governing appointments in the com-
 25 petitive service, may appoint not more than 10 technical

1 employees who may be paid without regard to the provi-
 2 sions of chapter 51 and subchapter IV of chapter 5 of
 3 that title relating to classification and General Schedule
 4 pay rates.

5 WAGE RATES

6 SEC. 202. (a) PREVAILING WAGE.—The Secretary
 7 shall ensure that all laborers and mechanics employed by
 8 contractors and subcontractors on any project assisted
 9 under this Act are paid wages at rates not less than those
 10 prevailing as determined by the Secretary of Labor in ac-
 11 cordance with the Act of March 3, 1931, as amended (40
 12 U.S.C. 276a et seq.). The Secretary of Labor has, with
 13 respect to this section, the authority and functions estab-
 14 lished in Reorganization Plan Numbered 14 of 1950 (ef-
 15 fective May 24, 1950, 64 Stat. 1267) and section 2 of
 16 the Act of June 13, 1934 (40 U.S.C. 276c).

17 (b) WAIVER FOR VOLUNTEERS.—Section 7305 of the
 18 Federal Acquisition Streamlining Act of 1994 (40 U.S.C.
 19 276d–3) is amended—

20 (1) in paragraph (5), by striking out the “and”
 21 at the end thereof;

22 (2) in paragraph (6), by striking out the period
 23 at the end thereof and inserting a semi-colon and
 24 “and”; and

25 (3) by adding at the end thereof the following
 26 new paragraph:

1 “(7) the Partnership to Rehabilitate America’s
2 Schools Act of 1997.”.

3 NO LIABILITY OF FEDERAL GOVERNMENT

4 SEC. 203. (a) NO FEDERAL LIABILITY.—Any finan-
5 cial instruments, including but not limited to contracts,
6 bonds, bills, notes, certificates of participation, or pur-
7 chase or lease arrangements, issued by States, localities
8 or instrumentalities thereof in connection with any assist-
9 ance provided by the Secretary under this Act are obliga-
10 tions of such States, localities or instrumentalities and not
11 obligations of the United States and are not guaranteed
12 by the full faith and credit of the United States.

13 (b) NOTICE REQUIREMENT.—Documents relating to
14 any financial instruments, including but not limited to
15 contracts, bonds, bills, notes, offering statements, certifi-
16 cates of participation, or purchase or lease arrangements,
17 issued by States, localities or instrumentalities thereof in
18 connection with any assistance provided under this Act,
19 shall include a prominent statement providing notice that
20 the financial instruments are not obligations of the United
21 States and are not guaranteed by the full faith and credit
22 of the United States.

23 CONSULTATION WITH SECRETARY OF THE TREASURY

24 SEC. 204. The Secretary shall consult with the Sec-
25 retary of the Treasury in carrying out this Act.

